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OCT 18 2006

Attorney Docket No. A35976, 066340.0176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Heger et al. Examiner : Chen, Kin-Chan  
Serial No. : 10/656,353 Art Unit : 1765  
Filed : September 5, 2003  
For : METHOD FOR DETERMINING THE END POINT FOR A  
CLEANING ETCHING PROCESS

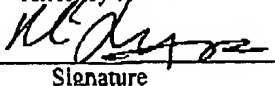
I hereby certify that this paper for S/N 10/656,353 is being facsimile  
transmitted to 571-273-8300 at the United States Patent & Trademark Office  
on the date indicated below:

October 18, 2006

Date of Deposit

Manu J. Teiwani

Attorney Name



Signature

37,952

PTO Reg. No.

October 18, 2006

Date of Signature

**PETITION TO WITHDRAW HOLDING OF  
ABANDONMENT RESULTING FROM FAILURE TO  
RECEIVE NOTICE OF ALLOWANCE AND  
STATEMENT UNDER 37 C.F.R. § 1.181**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

We have received a Notice of Abandonment (copy enclosed) in this case for  
"Applicant's failure to timely pay the required issue fee and publication fee." The USPTO had  
apparently mailed a Notice of Allowance and Fee(s) Due on June 6, 2006 as now seen on PAIR.

Unfortunately, applicants' attorneys of record, Baker Botts L.L.P., did not receive  
the Notice of Allowance and, therefore, could not timely pay the fees due. In accordance with  
M.P.E.P. Section 711.03(c) II, applicants' undersigned counsel hereby attests that we have

searched the file jacket and the docket records of this office and have been unable to uncover any indication that the Notice of Allowance and Fee(s) Due ever received.

A printout of the pertinent portions of the computer e-mail list of the Baker Botts employee, who receives, docket, and forwards e-copies of incoming PTO paper mail to attorneys within Baker Botts, is appended hereto as Exhibit 1. The Exhibit lists all e-copied incoming PTO mail for our client "006340", for the period 5/30/2006 to 10/17/2006. The printout shows no entry for client-matter number 066340.0176 or Attorney Docket No. A35976 corresponding the above-identified application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

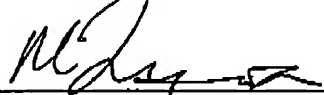
Applicants request the holding of abandonment of the application be withdrawn and a copy of the Notice of Allowance, redated to the mailing date of the PTO's response to this communication, be resent. Applicants further request that a copy of the Notice of Allowance be faxed to the undersigned at 212-259-2414.

Applicants do not believe that any fee is required in connection with the submission of this document. However, should any additional fee be required, or if any overpayment has been made, the Commissioner is hereby authorized to charge any fees, or credit or any overpayments made, to Deposit Account 02-4377.

Respectfully submitted,

BAKER BOTTS L.L.P.

By:



Manu J Tejawani

Patent Office Reg. No. 37,952

*Attorneys for Applicants*

30 Rockefeller Plaza

New York, NY 10012-4498

212-408-2500

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UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,353	09/05/2003	Percy Heger	A35976	7817

21003 7590 10/09/2006

BAKER & BOTTS  
30 ROCKEFELLER PLAZA  
44TH FLOOR  
NEW YORK, NY 10112

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OCT 16 2006

06340.0176

EXAMINER

CHEN, KIN CHAN

ART UNIT PAPER NUMBER

1765

DATE MAILED: 10/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

OCT 18 2006

**Notice of Abandonment**

Application No.

10/656,353

Examiner

CHEN, KIN CHAN

Applicant(s)

Percy Heger

Art Unit

1765

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-**

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

AG

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office  
PTOL 1422 (Rev. 04/04)

Notice of Abandonment

Part of Paper No. 0

## **Attachment to Notice of Abandonment**

**For questions concerning the notice contact**

**Office of Patent Publication**

**Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:

<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### **Respond to the Notice of Abandonment by one of the following:**

- 1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 571-273-8300

- 2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 571-273-8300

- 3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 571-273-8300

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

# Exhibit 1

To	Subject	Sent	
0 Butter, Gary M.	066340.0141 - A34941	Thu 2/9/2006 11:...	6...
0 Butter, Gary M.	066340.0144 - (A35056)	Wed 4/12/2006 2...	4...
0 Butter, Gary M.	066340.0177 - (A36020)	Wed 4/19/2006 1...	6...
0 Butter, Gary M.	066340.0168 - (A35814)	Fri 4/21/2006 1:0...	4...
0 Butter, Gary M.	066340.0174 - (A35962)	Mon 5/1/2006 4:...	4...
0 Butter, Gary M.	066340.0178 - (A36021)	Wed 5/3/2006 12...	6...
Torres, Jillian	RE: Offsite 066340.0147	Tue 5/16/2006 1...	1...
0 Butter, Gary M.	066340.0195 - (A36287)	Wed 5/24/2006 3...	6...
0 Butter, Gary M.	066340.0185 - (A36189-PCT-USA)	Tue 5/30/2006 1...	2...
0 Butter, Gary M.	066340.0126 - (A33890)	Mon 6/5/2006 2:...	5...
0 Butter, Gary M.	066340.0142 - (A34942)	Thu 6/15/2006 1...	6...
0 Butter, Gary M.; ...	066340.0148 - (A35190-PCT-USA)	Fri 6/23/2006 3:1...	6...
Lewis, Sharren; H...	RE: URGENT FILE REQUEST - 066340.0209	Wed 7/5/2006 11...	4...
0 Butter, Gary M.	066340.0186 - (A36204)	Wed 7/5/2006 3:...	5...
0 Butter, Gary M.	066340.0221 - (A36523)	Wed 7/5/2006 4:...	3...
Langellotti, Josep...	RE: file needed - 066340.0209 - did you send me this Lippert file?	Thu 7/6/2006 11:...	5...
0 Butter, Gary M.; ...	066340.0131- (A34394-PCT-USA)	Thu 7/6/2006 4:2...	6...
Egan, Catherine T...	FW: File 066340.0221	Mon 7/10/2006 3...	1...
Egan, Catherine T.	RE: File 066340.0221	Mon 7/10/2006 3...	1...
0 Egan, Catherine T.	FW: 066340.0186 - (A36204)	Tue 7/11/2006 1...	5...
Egan, Catherine T.	RE: 066340.0186 - (A36204)	Tue 7/11/2006 1...	1...
0 Butter, Gary M.	066340.0210 - (A36359)	Tue 7/11/2006 1...	1...
0 Butter, Gary M.	066340.0209 - (A36358)	Fri 7/14/2006 4:0...	2...
0 Butter, Gary M.	066340.0173 - (A35964)	Mon 7/17/2006 3...	1...
0 Butter, Gary M.	066340.0139 - (A34873-PCT-USA)	Thu 7/20/2006 1...	4...
0 Butter, Gary M.	066340.0162 - (A35738-PCT-USA)	Mon 7/31/2006 3...	6...
0 Butter, Gary M.	066340.0209 - (A36358)	Wed 8/2/2006 4:...	1...
Wanka, Jessica	RE: File Request from CPI	Fri 8/4/2006 4:57...	1...
0 Butter, Gary M.	066340.0140 - (A34921-PCT-USA)	Mon 8/7/2006 3:...	4...
DL NY Records	File is needed in docketing...	Mon 8/7/2006 3:...	7...
Lewis, Sharren; D...	RE: File is needed in docketing...	Mon 8/7/2006 3:...	1...
0 Butter, Gary M.	066340.0218 - (A36475-PCT-USA)	Mon 9/11/2006 1...	5...
0 Butter, Gary M.	066340.0166 - (A35764-PCT-USA)	Tue 9/12/2006 4:...	2...
0 Butter, Gary M.	066340.0174 - (A35962)	Wed 9/13/2006 4...	3...
0 Butter, Gary M.	066340.0157 - (A35682-PCT-USA)	Wed 9/20/2006 1...	6...
0 Butter, Gary M.	066340.0149 - (A35269-PCT-USA)	Mon 10/2/2006 3...	2...
0 Butter, Gary M.	066340.0173 - (A35964)	Wed 10/4/2006 4...	2...
Egan, Catherine T.	RE: 066340.0173 - (A35964)	Wed 10/4/2006 4...	1...
0 Butter, Gary M.	066340.0185 - (A36189-PCT-USA)	Tue 10/10/2006 ...	2...
0 Butter, Gary M.	066340.0139 - (34873-PCT-USA)	Tue 10/10/2006 ...	1...
0 Butter, Gary M.	066340.0176 - (A35976)	Mon 10/16/2006 ...	2...
0 Butter, Gary M.	066340.0186 - (A36204)	Tue 10/17/2006 ...	6...

→ Notice of Abandonment

# Exhibit 1